



MILPITAS PLANNING COMMISSION STAFF REPORT

September 14, 2016

APPLICATION: **FOOTSTEPS PRESCHOOL, Permit No. P-UP16-0008** - A request for a Conditional Use Permit to operate a 2,314 square foot child care center for 45 children in an existing building at 91 South Abbott Ave.

RECOMMENDATION: **Staff recommends that the Planning Commission adopt Resolution No. 16-033 approving Conditional Use Permit No. UP16-0008, subject to the attached Conditions of Approval.**

LOCATION:

Address/APN: 91 South Abbott Avenue (APN: 022-28-017)
Area of City: North of West Calaveras Boulevard (US237) at the intersection with South Abbott Avenue

PEOPLE:

Project Applicant: Wayne Renshaw, Wayne Renshaw Architects on behalf of Gireesh Malhotra
Consultant(s): Wayne Renshaw, Wayne Renshaw Architects
Property/Business Owner: Leonid Veksler
Project Planner: Bhavani Potharaju, Contract Assistant Planner

LAND USE:

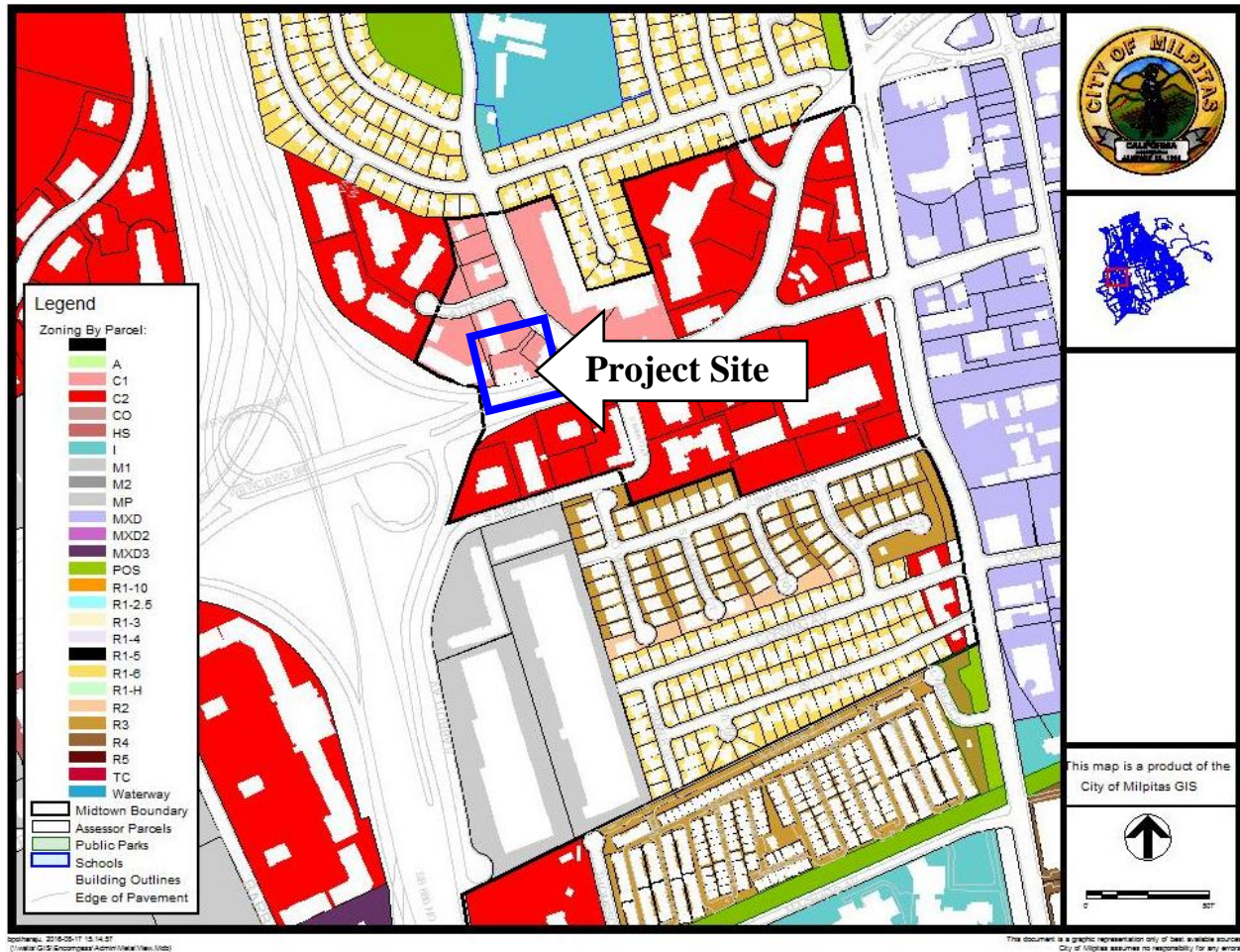
General Plan Designation: Retail Subcenter (RSC)
Zoning District: Neighborhood Commercial (C1)
Overlay District: None
Specific Plan: Midtown Specific Plan
Site Area: 0.54 acres

ENVIRONMENTAL: Categorically Exempt from further environmental review pursuant to Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA).

EXECUTIVE SUMMARY

The applicant is requesting a Conditional Use Permit (CUP) to operate a child care facility in an existing building for children aged 2 years to 5 years. The proposed tenant space is 2,314 square feet. The tenant improvements include reconfiguring the walls to add a classroom, staff room, office, waiting area, and new toilets. The applicant will operate the child care facility for a maximum of 45 children. The project is consistent with the General Plan, Zoning Ordinance, and Child Care Master Plan, and staff recommends that the Planning Commission approve the project subject to the findings and Conditions of Approval.

Map 1 Project Location



Map 2 Project Site



BACKGROUND

History

The project site was previously occupied by a Goodwill Store. In 1979, the Goodwill Store received approval for a 4-foot tall freestanding sign, and in 1983 the Planning Commission approved a 700 square foot addition to the existing building to serve as a warehouse. The Planning Commission also approved a request to modify the parking requirement and exterior modifications in 2006. The modified parking requirement was to accommodate trailer rotation for the Goodwill Store.

In 2015, a new owner applied for a Minor Conditional Use Permit to locate a Music and Dance School in a portion of the Project site which was approved by City of Milpitas Planning Staff on December 16, 2016. The same owner also applied for a Minor Site Development Permit in 2016 to change the color of the building. Footsteps Preschool will be occupying space as tenants in the eastern side of the existing building.

The Application

The following is a summary of the applicant's request:

- *Conditional Use Permit:* The applicant is requesting a Conditional Use Permit to allow for a 2,314 square foot child care facility for 45 students in an existing building.

PROJECT DESCRIPTION

Overview

The project site is situated on 0.54 acre site located at 91 South Abbott Avenue. The 7,300 square foot commercial building at the project site is currently occupied by a 4,884 square foot after-school program for music and dance. The applicant is requesting a Use Permit to allow a child care facility in an existing tenant space of 2,314 square feet for children aged 2 years to 5 years. The tenant improvements include reconfiguring the walls to add a classroom, staff room, office, waiting area, and new toilets. The applicant will operate the child care facility for a maximum of 45 children and from 7:00 AM to 7:00 PM, Monday through Friday. The applicant also proposes to conduct occasional special events (such as open houses, parent nights, etc.) between 7:00 PM to 9:00 PM on one weekday per month and 7:00 AM to 7:00 PM on one weekend per month.

In addition, the project also proposes site improvements to construct an outdoor play area; the applicant will be removing five parking spaces and adding play equipment with a new fall mat, a sand box, an artificial turf area to play, student vegetable and flower garden, and an area for circle time activities and tricycle races.

Location and Context

The site is surrounded by a multi-tenant commercial building to the north, US 237 to the south, a hotel to the west, and a gas station to the east. The project site is located within the Neighborhood Commercial (C1) zoning district, which allows child care facilities through approval of a Conditional Use Permit. Vicinity and location maps of the subject site location are included on the previous page.

Table 1: Zoning and Land Use Summary

	General Plan	Zone	Uses
Subject Site	Neighborhood Commercial (C1)	Retail Subcenter (RSC)	Veksler Music and Dance School
North	Neighborhood Commercial (C1)	Retail Subcenter (RSC)	Commercial Building
South	US 237	US 237	Freeway
East	Neighborhood Commercial (C1)	Retail Subcenter (RSC)	76 Gas Station
West	Neighborhood Commercial (C1)	Retail Subcenter (RSC)	Best Western Inn

PROJECT ANALYSIS

General Plan and Zoning Conformance

General Plan

The project conforms to the intent of the Retail Subcenter (RSC) General Plan Land Use designation. The project increases the existing stock of child care service to serve residents and

businesses in the City. The project also complies with Land Use policy 2.a-I-33 and 2.a-I-7, as indicated in Table 5 below.

Zoning Ordinance

The project complies with the development standards set forth in the Zoning Ordinance. The project does not propose any addition of square footage to the building; the applicant will be making interior modifications to an existing tenant space. In addition, the project also proposes site improvements to construct an outdoor play area. The setback requirements, Floor Area Ratio (FAR), and landscaping requirements remain the same. The nature of the project site remains largely unaltered, but due to the reconfiguration of internal square footage, intensification of the use, and the proposed site improvements, the project is required to meet the current parking requirement (discussed below).

Child Care Master Plan

The project is also consistent with the Milpitas Child Care Master Plan as it promotes the development of additional child care facilities within city limits and encourages new child care facilities to offer a variety of child care types (such as, before/after school care, disabled care, infant care, school age care etc.) in order to meet specific needs. The table below outlines the project's consistency with the goals and implementation policies of the Milpitas Child Care Master Plan dated April 2, 2002.

Table 2: Milpitas Child Care Master Plan Consistency

Policy	Consistency Finding
<i>Long Range Goal: Every child and family has access to affordable, safe, quality child care</i>	Consistent. The project proposes a 2,314 square foot child care facility. The facility will accommodate 45 children and serve the surrounding the neighborhood.
<i>Accessibility Policy 2.2-G-I: The City of Milpitas promotes the retention of existing facilities and the development of new child care facilities within the city limits.</i>	Consistent. The project proposes a new child care facility within the city limits which is consistent with the accessibility policy.

Development Standards

There are no exterior changes proposed to the building (with the exception of signage) and the building will maintain existing building setbacks, height, and floor area ratio, which is consistent with the development standards of the Neighborhood Commercial (C1).

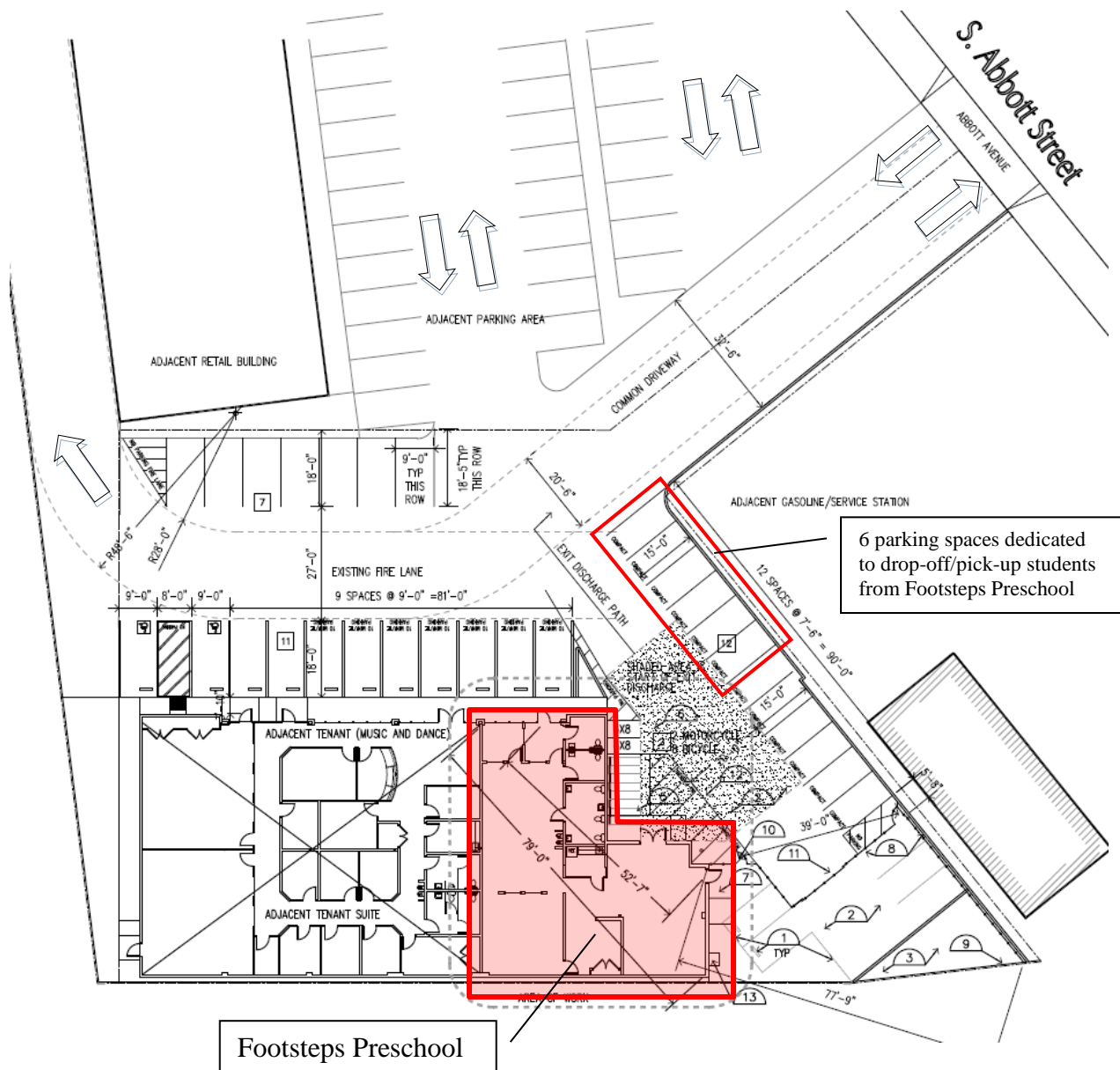
Outdoor Play Area

The preschool provides a 1,935 square foot outdoor play area that includes play equipment with a new cushioned mat, a sand box, an artificial turf play area, student vegetable and flower garden, and an area for circle time activities and tricycle races. The outdoor play area is fenced off from the parking area and will be built per Department of Social Services regulations, which requires 75 square feet per student. Since the play area is 1,935 square feet, a maximum of 25

students can be outside at any given time. This has been included as part of the conditions of approval, please see Attachment A.

Access and Circulation

Access to the project site is provided by a driveway located along South Abbott Avenue that provides entry and exit. This driveway is shared with the commercial building located on the north of the project site. Internal circulation is provided by 27-foot wide drive aisle to access the parking. The internal driveway connects to a driveway of the commercial building that loops around the back of the building and exits on Valley Way.



Drop-Off and Pick-Up/Staggered Classroom Hours

The child care center will be operated from 7:00 am to 7:00 pm. Parents will be required to escort kids inside the building for the drop-off. Please see the table below for the drop-off/pick-up schedule.

Table 3: Drop-off/pick-up summary

Hour of the day	Number of students arriving	Number of students departing	Total number of students at school	Total staff members at school
7:00 am to 8:00 am	5	0	5	1
8:00 am to 9:00 am	10	0	15	2
9:00 am to 10:00 am	15	0	30	3
10:00 am to 11:00 am	10	0	40	4
11:00 am to 12:00 pm	5	0	45	4
12:00 pm to 1:00 pm	0	15	30	4
1:00 pm to 2:00 pm	15	0	45	4
2:00 pm to 3:00 pm	0	7	38	4
3:00 pm to 4:00 pm	0	10	28	3
4:00 pm to 5:00 pm	0	10	18	2
5:00 pm to 6:00 pm	0	8	10	2
6:00 pm to 7:00 pm	0	10	0	2

Parking

Table 4 demonstrates the project's compliance with the Zoning Code parking standards per Milpitas Municipal Code Section XI-10-53 (*Off-Street Parking*).

Table 4: Parking Summary

Uses	Parking ratio	Square footage/ number	Required Parking	Provided Parking
Music and Dance School				
Music Classes	1 per classroom	11	11	11
Dance Studio	1 per 150 sq. ft.	1,498 sq. ft.	10	10

<i>Footsteps Preschool</i>				
<i>Classroom</i>	1 per 500 sq. ft.	2,314 sq. ft.	5	11
<i>Loading and Unloading</i>	1 per 6 children; up to 5 spaces and thereafter 1 per 10 children	45 students	5	
			1	
			Total 11	
Total Number of Spaces Required				32
Total Number of Parking Spaces Available				32*
Parking includes: 18 Standard Parking Spaces, 12 Compact Parking Spaces, 8 Bicycle Spaces= 1 Parking Space*, 2 Motorcycle Spaces= 1 Parking Space* Total Parking Spaces = 32				
*Per Section XI-10-53.13 (B)(4), omission of one parking space is allowed for each eight bicycle spaces provided and omission of one parking space is allowed for each two motorcycle spaces provided. Hence the total parking calculation comes up to 32 spaces available.				

Footsteps Preschool will be sharing the parking spaces with Veksler Music and Dance Academy. The Music and Dance Academy is an after school program which will operate from 3pm to 8pm. They will cater to an age group of 3 years to adults for one on one sessions in the music classes (11 classrooms) and an age group of 3 years to 15 years for a maximum of 12 students in the dance studios (2 dance studios). At any given time maximum occupancy of the music and dance academy is 35 students. Staff believes that since the site has only two business owners, the demand in parking can be offset by staggering the classroom hours and drop-off and pick-up times.

The after school programming at Veksler Music and Dance Academy has recently started operation and is currently not operating at full capacity. The Academy owner, who is also the property owner, has agreed to work with Footsteps Preschool to stagger class schedules in the future to avoid parking congestion at the site, a fact that is included in the conditions of approval for the project.

FINDINGS

A finding is a statement of fact relating to the information that the Planning Commission has considered in making a decision. Findings shall identify the rationale behind the decision to take a certain action.

Conditional Use Permit (Section XI-10-57.04(F)(1))

- a. The proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare.*

The proposed child care facility will serve the community by providing additional child care options for residents, and, as designed, will have no detrimental or injurious impacts on the property or improvements in the vicinity of the property. The operation of the facility will be in compliance with all local, state, and federal regulations.

b. *The proposed use must be consistent with the Milpitas General Plan*

The table below outlines the project's consistency with applicable General Plan Guiding Principles and Implementing Policies:

Table 5: General Plan Consistency

Policy	Consistency Finding
<i>Policy 2.a-1-33: Encourage the establishment of daycare facilities consistent with State standards, including the issuance of use permits for a large daycare facility where compatible with surrounding neighborhoods and commercial uses, particularly in public facilities such as community centers, churches, and schools and in employment centers and large housing developments.</i>	Consistent. The project is consistent with this finding because it will offer child care facilities that, as a Condition of Approval, will be required to comply with all local, state and federal regulations. The project is located in a commercial area surrounded by residential uses, which will provide the community with a service to serve their needs.
<i>2.aI-7: Provide opportunities to expand employment opportunities in partnerships with local businesses to facilitate communication, and promote business retention.</i>	Consistent. The project would provide employment opportunities and revitalization of the commercial center by replacing a vacancy with a use that would be complementary to existing uses within the center.

c. *The proposed use must be consistent with the Milpitas Zoning Ordinance.*

The proposed child care center conforms to the Milpitas Zoning Ordinance in that the use is a conditionally permitted use in the Neighborhood Commercial (C1) district and complies with the development standards and parking requirements. The project does not propose any addition of square footage to the building; the applicant will be making interior modifications to an existing tenant space. In addition, the project also proposes site improvements to construct an outdoor play area. The setback requirements, Floor Area Ratio (FAR), and landscaping requirements remain the same and hence is consistent with the Milpitas Zoning Ordinance.

ENVIRONMENTAL REVIEW

Categorically Exempt from further environmental review under the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Existing Facilities) as the project consists of the minor alteration of existing private structures and features.

PUBLIC COMMENT/OUTREACH

Staff provided public notice of the application in accordance with City and State public noticing requirements. At the time of writing this report, there have been no inquiries from the public. A notice was published in the Milpitas Post on September 2, 2016. In addition, 475 notices were sent to owners and occupants within 1,000 feet of the project site. A public notice was also provided on the project site, on the City's Website, www.ci.milpitas.ca.gov, and posted at City Hall.

CONCLUSION

In conclusion, the proposed project is consistent with the policies and guiding principles identified in the General Plan and satisfies the requirements specified in the Municipal Code. The proposed use will contribute towards City's economic development goals and provide necessary public infrastructure improvements.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission:

1. Open and Close Public Hearing;
2. Adopt Resolution 16-033 approving Conditional Use Permit No. UP16-0008 to allow the use of an existing building for a child care facility for a maximum of 45 students located at 91 South Abbott Avenue, subject to the findings and Conditions of Approval.

ATTACHMENTS

A: Resolution 16-033

B: Project Plans